OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 402 of the 132nd G.A.

Status: As Passed by the Senate

Sponsor: Rep. Hill

Local Impact Statement Procedure Required: No

Subject: To revise telephone company regulations

State & Local Fiscal Highlights

- The bill revising state regulation of telephone companies may reduce day-to-day administrative costs for the Public Utilities Commission of Ohio (PUCO). Any decrease in such costs would reduce expenses paid from the Public Utilities Fund (Fund 5F60).
- The bill requires PUCO to deliver a report, within three years and three months, about certain features of the basic local exchange service market. This provision may minimally increase costs paid from Fund 5F60.
- Those political subdivisions that utilize basic local exchange service from their telephone company may incur minimal increases in governmental expenditures based upon the provisions in H.B. 402.

Detailed Fiscal Analysis

H.B. 402 further deregulates certain aspects of telecommunications services, a process that began with S.B. 162 of the 128th General Assembly, with changes to telecommunications service requirements, especially in regard to the provision of basic local exchange service (BLES) and PUCO's authority and jurisdiction over certain telecommunications services. Additionally, the bill expands the law governing the 9-1-1 system to include providers that are not covered by current law. Under the bill, state telecommunications policy, as enumerated in the Revised Code, is amended to be consistent with the bill's deregulation of certain aspects of telecommunications services. Specifically, the bill retains the state policy of ensuring adequate basic local exchange service, in accordance with recently enacted state law (H.B. 64 of the 131st General Assembly) that governs the withdrawal of BLES.

To the extent that local governments utilize BLES, the bill will likely raise their expenditures for telephone service. H.B. 402 modifies the amount by which an incumbent local exchange carrier (ILEC) may increase rates for BLES. The bill allows an

ILEC to increase its BLES rates in a 12-month period by up to $2.00.[1] Current law restricts an ILEC's BLES rate increase to $1.25 per 12-month period. The cap specified in the bill can be removed four years after the effective date of the bill. At that time, the telephone carrier may apply to PUCO for an exemption from the requirements of section 4927.12 of the Revised Code; that section includes the $2.00 limitation on increases in BLES rates described above. The criteria for PUCO approval are specified in the bill, and the primary condition is that an ILEC must have lost 50% of its BLES customer access lines in an exchange area since January 1, 2002. If PUCO approves the ILEC's application, the bill permits a carrier to increase rates as long as it provides 30 days' notice to PUCO and affected customers.

The bill requires PUCO to submit a report to the General Assembly. The submitted report must include the Commission's assessment of the information described by PUCO staff in a separate report initiated and docketed (inclusive of a three-month comment period) at the Commission. The PUCO staff report must include all of the following:

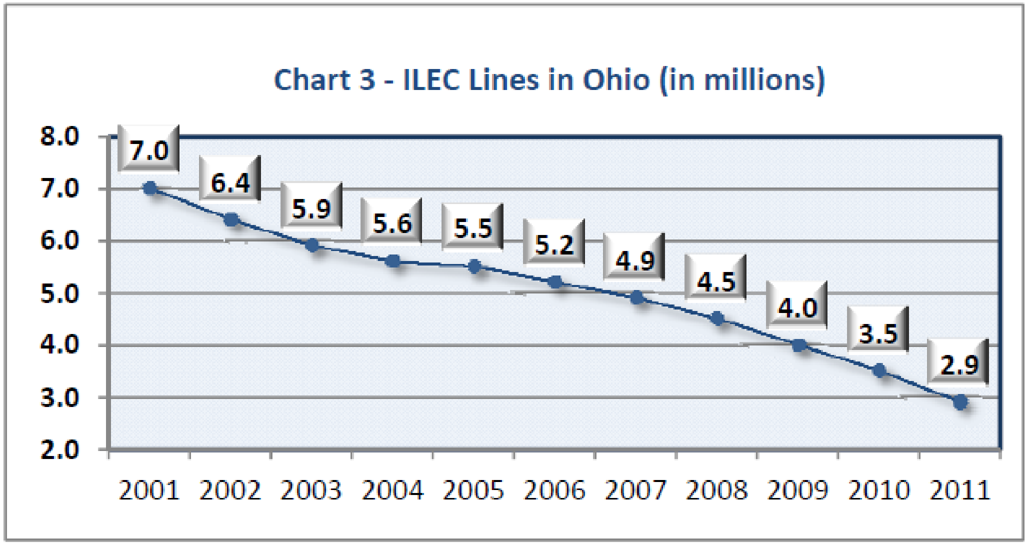
1. The number of customers using BLES in Ohio at the time of the report;
2. The aggregate amount of line loss in Ohio since the effective date of H.B. 402;
3. The change in the price of BLES in each exchange area in this state over the three years since the bill's effective date.

The PUCO staff report is due within three years of the bill's effective date, and the PUCO report to the General Assembly is due within three months after the staff report is delivered.

Statistics similar to those that will be required in the report were previously submitted by the Ohio Telecom Association in 2013 as part of the Select Committee on Telecommunications Regulatory Reform. The chart below is reprinted from their submitted testimony, and it illustrates the decline in ILEC lines from 2001 to 2011.

Separately, the bill requires PUCO to allow an ILEC to increase its BLES rates by any amount necessary to comply with the Federal Communications Commission's (FCC's) eligibility requirements for the federal Universal Service High-Cost Program. H.B. 402 allows PUCO to order these rate increases to be phased in over a period not to exceed three years if PUCO determines the phase-in is necessary to protect the public interest.

[1] Conversely, the bill also permits carriers to lower BLES rates "downward by any amount, but not below the carrier's incremental cost," which is a term to be subsequently defined by PUCO.



Source: FCC and Ohio Telecom Association

The deregulation aspect in the bill may reduce expenditures incurred by PUCO. H.B. 402 conditionally removes the requirement of PUCO approval for: (1) a person to acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company, and (2) a domestic telephone company to merge with another domestic telephone company. Under the bill, PUCO would not need to approve these types of acquisitions or mergers if there is a pending application with the FCC regarding the matter, unless the FCC chooses not to exercise its authority regarding the matter. Any decrease in costs likely would reduce expenditures from appropriation item 870622, Utility and Railroad Regulation, which draws on the Public Utilities Fund (Fund 5F60).[2]

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[2] Fund 5F60 receives funding from an assessment on the utilities regulated by PUCO. The amount of the assessment is based on the amounts appropriated by the General Assembly for line items drawing on Fund 5F60. More details can be found in the Catalog of Budget Line Items (COBLI), an LSC publication that can be found on the LSC website.